

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

THE UNITED STATES OF AMERICA *et al.*
ex rel. JULIE LONG,

Plaintiffs,

V.

JANSSEN BIOTECH, INC.,

Defendant.

Civil Action No.
16-12182-FDS

**NOTICE WITHDRAWING REQUEST FOR COURT ORDER REQUIRING
RELATOR TO SELECT TWELVE ADDITIONAL DOCUMENT CUSTODIANS**

Defendant Janssen Biotech, Inc. (“Defendant”) submits this notice seeking to withdraw its pending request that the Court enter an order directing Relator to identify 12 additional custodians. Prior to filing this Notice, counsel for Janssen asked Relator’s counsel for their position. Relator does not object to Janssen withdrawing its pending request that the Court enter an order directing Relator to identify 12 additional custodians. Relator has noted that this Notice does not resolve certain other issues pending before the Court.

The Court held oral argument on Monday, January 23, 2023, during which, among other things, the process for selecting additional individuals for whom Janssen will produce documents was discussed. That included a discussion of: (1) a full document production from 12 additional “document custodians” to be selected by Relator; and (2) a more limited production using a sampling approach from additional individuals who had significant involvement in the programs at issue but were not selected as document custodians by Relator. As Your Honor is aware, one

of the disputed issues is whether Janssen has provided Relator with enough information to select the additional document custodians for whom Janssen would make a full document production.

To simplify the process, facilitate the production, and avoid further burdening the Court with this issue, Janssen will provide a full document production for all of the individuals it has identified as having “significant involvement.” Specifically:

- Janssen will run the current set of search terms across all of the individuals identified in response to Relator’s 30(b)(6) Topic No. 2 (ECF No. 334-2), and produce any non-privileged, responsive documents.
- Janssen will similarly run the current set of search terms across all the individuals identified in response to Relator’s 30(b)(6) Topic No. 4 that are associated with Health Care Compliance (ECF No. 334-2), and will produce any non-privileged, responsive documents.¹
- In addition, pursuant to the Court’s February 17, 2022 order (ECF No. 282), once Relator identifies the two additional legal custodians of her choosing, Janssen will produce any non-privileged, responsive documents, and identify any documents withheld as privileged on a privilege log.
- Janssen recognizes that it is possible that after receiving and reviewing these documents Relator could identify additional individuals whose documents Relator believes should be produced. If that occurs, Janssen will agree to produce documents for up to two such additional individuals of Relator’s choosing (i.e., without the need for Court intervention). If Relator identifies more than two such additional individuals, Janssen will meet and confer with Relator in good faith at that time.

In addition to the above, with respect to the period from February 2016 to February 2020, Janssen will identify any additional individuals not previously identified that were involved in the termination of the programs and/or the assessment of the legality of the programs. If any additional individuals are identified, Janssen will provide Relator with their names, as well as

¹ For clarity, this means Janssen will produce non-privileged, responsive documents from John Franz, Gina Giordana, Roger Kung, Michael Schoeck, Angela Wood, and Chris Zalesky

their roles, and dates they held that role. Janssen will then produce non-privileged documents relating to the termination of the programs and/or the assessment of the legality of the programs.

DATED: January 27, 2023

Respectfully submitted,

s/ Jason C. Raofield

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CERTIFICATE OF SERVICE

I hereby certify on this 27th day of January, 2023, that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

s/ Jason C. Raofield

Jason C. Raofield